

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2016-025-00073R

Parcel No. 14-19-300-015

Kevin Zehr,
Appellant,

v.

Dallas County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on October 13, 2016. Kevin Zehr was self-represented. Dallas County Assessor Steve Helm represented the Board of Review.

Zehr is the owner of a residential, one-story modular home located at 18132 Bear Creek Road, Earllham. Built in 2003, it has 1944 square feet of above-grade finish and a 1680 square-foot unfinished basement. It also has a two-car attached garage, and a three-car detached garage. The site is 1.33 acres. (Ex. A).

The property's January 1, 2016 assessment was \$232,530, allocated as \$37,800 in land value and \$194,730 in improvement value. On his protest to the Board of Review, Zehr claimed the assessment was not equitable as compared with assessments of other like property and was assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the petition. Zehr then appealed to PAAB, asserting the subject's correct assessment is \$197,620.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Moreover, the Iowa Courts have concluded the "ultimate issue . . . [is] whether the total values affixed by the assessment roll were excessive or inequitable." *Deere Manufacturing Co. v. Zeiner*, 78 N.W.2d 527, 530 (Iowa 1956). *See also White v. Bd. of Review of Dallas County*, 244 N.W.2d 765 (Iowa 1976). Thus, while Zehr's arguments

focus, in part, on the subject's land value as determined by the Assessor, our analysis of his claims concentrates on the subject's total value.

Inequity and Overassessment Claims

i. Applicable Law

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.” *Id.* at 711.

The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

ii. Findings of Fact

Zehr testified that he lives in an older rural subdivision and his home is a modular building, not stick-built. Zehr submitted photographs of the subject property to demonstrate that other than a sunroom addition in 2011 there have been no, to minimal, changes in the property since it was built. (Exs. 1-11). He also asserted that agricultural values have not been increasing due to declining crop prices, which he believes supports his opinion that his assessment should not have increased. (Ex. 12)

According to notes on the subject's property record card, its assessment was set at \$210,000 in 2011 by the Dallas County Board of Review. We presume Zehr's assessment had not changed until it was increased from \$210,000 to \$232,530 in 2016. Zehr believes his assessment increased too much from the previous assessment and that other nearby properties did not increase by the same rate or saw decreases in their assessments. He submitted twelve properties to support his claim. (Exs. 12A-12E, 13-19). The following table summarizes these properties.

Address	Site Size (Acres)	Style	Gross Living Area (GLA)	Outbuildings	Year Built	Assessed Site Value	Assessed Dwelling Value	2016 Total Assessed Value
Subject	1.33	1 Sty	1944	3 Det Gar	2003	\$37,800	\$194,730	\$232,530
1 - 18112 Bear Creek Rd	1.51	1 Sty	1344	2 Det Gar	1979	\$38,000	\$134,500	\$172,500
2 - 18162 Bear Creek Rd	1.87	Split Foyer	988	2 Det Gar	1973	\$38,400	\$68,320	\$106,720
3 - 18215 Bear Creek Rd	1.39	1 Sty	1152	None	1900	\$37,900	\$63,590	\$101,490
4 - 18022 Bear Creek Rd	1.34	1 Sty/Attic	864	None	1917	\$37,800	\$76,760	\$114,560
5 - 34588 Irving Ct	5.88	1.5 Sty	1812	Pole Bldg	1968	\$57,500	\$140,920	\$198,420
6 - 34639 I Ave	5.53	1 Sty	2052	Pole Bldg	2003	\$44,250	\$159,600	\$203,850
7 - 206 3rd St	0.34	1.5 Sty	1647	1 Det Gar	1900	\$21,060	\$127,550	\$148,610
8 - 34755 I Ave	11.62	2 Sty	2183	None	2001	\$64,050	\$243,450	\$307,500
9 - 34909 I Ave	13.50	2 Sty	2752	None	2002	\$68,750	\$285,470	\$354,220
10 - 22322 280th St	15.26	1 Sty	1697	None	1993	\$64,430	\$147,110	\$211,540
11 - 31072 130th Ct	5.00	1 Sty/Attic	2054	Pole Bldg	1978	\$43,590	\$148,150	\$191,740
12 - 3589 Del Rio Rd	1.35	Berm	3200	Pole Bldg	2004	\$23,880	\$183,050	\$206,930

Zehr submitted comparables 1 to 4, which are located in his development and all have similar site sizes and generally comparable assessed site values. However, there are some significant differences in the improvements of these properties compared to the subject. Zehr's property is larger and newer than the neighboring properties and

several lack additional outbuildings. These differences contribute to the variances in the assessed dwelling values between his property and those he submitted for comparison.

Zehr submitted comparables 5 to 12 to demonstrate that other properties in the County received limited to no value change. The change in 2015 to 2016 assessments for these properties ranged from $-.02\%$ to $+.02\%$; with an average and median of 0.00% change from 2015-2016.

There is no indication any of Zehr's comparables have recently sold. Therefore, we are unable to develop an assessment/sales ratio. Moreover, Zehr did not submit any evidence of the subject's fair market value, such as sales of comparable properties, an appraisal, cost analysis, etc.

Analysis & Conclusion

Zehr asserts his property is both inequitably and overassessed.

Zehr submitted several properties to compare to his property and its assessment. While some of the properties selected have some similarities, many possess substantial differences, including the size of their lots and the age of improvements. In total, we do not believe the provided properties are sufficiently similar and comparable to the subject to materially aid in our analysis of Zehr's claims. Moreover, none of these properties recently sold, which is necessary information to complete a *Maxwell* analysis. Likewise, Zehr failed to show the Assessor's Office did not apply an assessing method uniformly to similarly situated or comparable properties.

Zehr expressed concern about the degree of his assessment increase from 2015 to 2016 when compared to other properties. We note that 2016 was not a reassessment year. Iowa Code § 428.4. Thus, the majority of the submitted properties were not revalued by the Assessor's Office for 2016. Even if we were inclined to examine the reasonableness of the assessment changes, it would not be appropriate to do so under these facts.

In general, simply asserting other nearby properties' assessments did not increase at the same rate as his assessment is a mislaid argument. In nearly all cases,

comparing the rate of increase between assessments does not, by itself, demonstrate the subject property is inequitably assessed or overassessed.

The record indicates this may have been the subject property's first assessment increase since 2011. In our experience, when a property's assessed value has remained stagnant for a period of years despite increases in the actual fair market value of the property, the reassessment of that property will often result in an increase in order to return the assessment to market value. This may have been the case here.

Ultimately, Zehr did not submit any evidence of fair market value, such as comparable property sales, an appraisal, or cost analysis, to demonstrate the assessment is inaccurate. As a result, we find there is inadequate evidence to conclude the property is assessed for more than authorized by law.

For the aforementioned reasons, we find Zehr failed to show the subject property is inequitably assessed or overassessed.

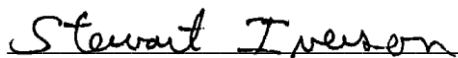
Order

IT IS THEREFORE ORDERED that the Dallas County Board of Review's action is affirmed.

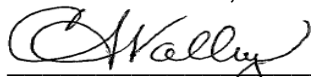
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Camille Valley, Board Member

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